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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,829	04/28/2006	Thomas F. Gustafson	1215.016PCT.US	5174
27353 7590 05/11/2009 MELVIN K. SILVERMAN AND ASSOC'S PC 500 WEST CYPRESS CREEK ROAD SUITE 350 FT. LAUDERDALE, FL 33309				
EXAMINER EPPEL, BRYAN L				
ART UNIT 3635		PAPER NUMBER		
MAIL DATE 05/11/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/538,829

Applicant(s)

GUSTAFSON, THOMAS F.

Examiner

BRYAN EPPES

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,7-10,13,14,16-18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,7-10,13,14,16-18 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is a final office action on the merits for application serial number 10/538,829 filed 6/13/2005. The office action is in response to the amendment filed 11/13/2008. Claims 3, 4, 7-10, 13, 14, 16-18 and 20-25 are pending. Claims 22-25 are new.

Claim Objections

1. The claim objections of the previous Action have been successfully traversed by amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 3, 4, 7-10, 13, 14, 16-18, 20-25 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 22 and 24 both include the language "a central solid rectangular atrium" which does not appear supported by the specification. Specifically, a "solid" atrium was not earlier disclosed. On the contrary, the specification uses the language "air/light well" and "opening" to describe the atrium.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 3, 4, 9, 10, 13, 14, 16, 18, 20-25 rejected under 35 U.S.C. 102(b) as being anticipated by Mason (U.S. Pat. 1,830,518).

a. Regarding claims 22 and 24, Mason discloses a mixed-use pedestrian parking structure (Fig. 1 in general) comprising:

(a) at least two sequential multi-level parking units (Fig. 1, right and left buildings separated by intermediate street 50), one of which interpreted as an entry and one an exit such that each has ramps capable of being used in a single direction, and each having one directional parking access aisle[s] (Fig. 1, element 25) and each provided with a central rectangular atrium (shown as the central open air/light well);

(b) a liner building surrounding [the] parking units on at least two sides of each of [the] sequential multi-level parking unit[s] (Fig. 2, elements 35, 18, 22, 27; page 4, lines 9-10 and 15-16);

(c) a multi-use buffer corridor (Fig. 2, element 36) defining an interface (Fig. 2, element 37) between [the] parking units (Fig. 2, element 25) and [the] liner building (Fig. 2, elements 35, [the] liner building including at least one

common wall (interior wall 28) with [the] buffer corridor, [the] wall including means for access to and from [the] buffer corridor (page 4, line 67 defines names element 36 as a passageway; page 4 lines 39-42), [the] liner building including at least one common wall with [the] parking units (Fig. 2, element 28), [the] wall including means for access to and from [the] inner building (column 4, lines 39-42); and

(d) a cross-over ramp between [the] sequential parking units" (Fig. 1, element 53/31 on top level) capable of being used in a single direction.

b. Regarding claims 23 and 25, Mason discloses "at least one exterior pedestrian-oriented corridor between at least one set of [the] sequential parking units (Fig. 2, element 32 around roadway/parking 31)."

c. Regarding claim 3, Mason discloses a "pedestrian-oriented....ground level corridor" (Fig. 2, element 17).

d. Regarding claim 4, Mason discloses "an interior pedestrian corridor, transverse to [the] exterior corridor, [the] interior corridor substantially bisecting [the] at least two parking units (Fig. 1, portion of element 21 parallel with street 50).

e. Regarding claim 9, Mason discloses "means for angled parking on a parking deck of each unit, situated about [the] central atrium (Fig. 9, boxed area shows cars parked at an angle)."

- f. Regarding claim 10, Mason discloses "means for parallel parking along an outer edge of a parking deck of each unit" (Fig. 9, dark arrow shows car parallel to outer edge of parking deck).
- g. Regarding claim 13, Mason discloses a "pedestrian-oriented....ground level corridor" (Fig. 2, element 17).
- h. Regarding claim 14, "an interior pedestrian corridor, transverse to [the] exterior corridor, [the] interior corridor substantially bisecting [the] at least two parking units (Fig. 1, portion of element 21 parallel with street 50).
- i. Regarding claim 16, Mason discloses "a multi-use buffer corridor (Fig. 2, element 36) defining an interface (Fig. 2, element 37) between [the] parking units (Fig. 2, element 25) and [the] liner building (Fig. 2, elements 35, [the] liner building including at least one common wall (interior wall 28) with [the] buffer corridor, [the] wall including means for access to and from [the] buffer corridor (page 4, line 67 defines names element 36 as a passageway; page 4 lines 39-42)."
- j. Regarding claim 18, Mason discloses "at least one corridor contiguous with [the] at least one common wall" (Fig. 2, wall 28 is contiguous with corridor 36).
- k. Regarding claim 20, Mason discloses "means for angled parking on a parking deck of each unit, situated about [the] central atrium (Fig. 9, boxed area shows cars parked at an angle)."

- I. Regarding claim 21, Mason discloses "means for parallel parking along an outer edge of a parking deck of each unit" (Fig. 1, dark arrow shows car parallel to outer edge of parking deck).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 7, 8, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mason (U.S. Pat. 1,830,518) in view of Johnston (U.S. Pat. 6,209,270).

- m. Regarding claims 7, 8, and 17, Mason discloses an apparatus as described previously with claims 1, 2, and 16, but lacks that the "buffer corridor includes HVAC facilities."

Johnston teaches that it is known in the art to provide multi-level buildings in which vehicles are operated with HVAC facilities (column 2, lines 60-64). The use of HVAC facilities has provides for ventilation of gasses produced by vehicles in the structure.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Mason by using HVAC facilities

similar to that of Johnston in order to provide ventilation of the gasses produced by vehicles in the structure, and to place it in the buffer corridor to prevent the facilities noises from disrupting users.

Response to Arguments

5. Applicant's arguments filed 11/13/2008 have been fully considered but they are not persuasive. Regarding any unamended relevant comments:

n. Regarding the limitations of a specific direction (i.e. unidirectional) as found in the claims, this feature is construed as an intended use of the structure. Since the prior art meets the structural limitations of the claim, it is deemed capable of performing likewise. In this case, Mason is fully capable of functioning in a unidirectional manner as suggested in Applicant's remarks at p. 9 lines 9-11.

o. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., geometric differences) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

p. Applicant's argument that the structures have differing objectives and benefits is a recitation of the intended use of the claimed invention which must be claimed as well as result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the

prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

q. Regarding original claim 20, it appears the previous action inadvertently directed Applicant to figure 9 of Mason when the correct figure is figure 1, showing angled parking. Nevertheless, as pointed out by Applicant in the remarks at p. 15 line 14, the direction of parking is an intended use of the garage. Mason is capable of both parallel and angled parking.

Furthermore, in a broadest sense the claimed "means for angled parking" limitation is met simply by providing a parking surface.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN EPPES whose telephone number is (571)270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Richard E. Chilcot, Jr./
Supervisory Patent Examiner, Art Unit 3635

/B. E./
Examiner, Art Unit 3635